

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Phillip Lee Williams Sr. And Allyson  
Elizabeth Williams**

Case No. 10-81248  
Chapter 13

Soc. Sec. No. xxx-xx-6659 and xxx-xx-3569  
Mailing Address:504 Stonelick Drive, Durham, NC 27703-

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Debtors

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**AMENDED MOTION TO MODIFY PLAN**

**NOW COME the Debtors**, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on July 16, 2010, with the Chapter 13 plan being subsequently confirmed on October 12, 2010.
2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:  
  
From: \$1,870.00 per month,  
  
To: \$1,870.00 per month through June, 2011, followed thereafter by \$1484.00 per month, starting in July, 2011.
3. The changed circumstances that justify the proposed modification are as follows:
  - a. The Debtors obtained a modification of their mortgage with BB&T, the terms of which were approved by this court on July 21, 2011. The modified mortgage provides for a lower monthly mortgage payment and reamortizes the existing arrearage, lowering the Debtors monthly mortgage expense. Mortgage payments to BB&T will continue to be disbursed through the Chapter 13 Trustee.
4. To further facilitate the proposed modification, the Debtors surrender any interest they may have in collateral securing the following claim:

Creditor and Claim No.	Collateral
Auto Credit of Raleigh (claim no.3)	2005 Chevrolet Impala

At the time of the filing of the Debtors' Chapter 13 bankruptcy, the 2005 Chevrolet Impala had a fair market value of \$6,210.00.

At the time of the filing of the Debtors' Motion to Modify, the 2005 Chevrolet Impala had a fair market value of \$5,810.00. The 2005 Chevrolet Impala has depreciated in the amount of \$500.00 since the filing of the Debtors' Chapter 13 bankruptcy.

That, pursuant to *In re Miller* (Unpublished, MDNC 99-81339), the Debtors' Chapter 13 plan has paid approximately \$896.16 to Auto Credit of Raleigh, exceeding the depreciation on the 2005 Chevrolet Impala in the amount of \$396.16.

5.. **The modification also provides for the following change in treatment of the following secured claim:**

a. **Citifinancial Auto Corporation: Reduction in monthly payment from \$247.11 to \$232.00.**

6. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.
7. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
8. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325.

**Appended Application for an Additional Attorney Fee**

9. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

These services were not taken into account in the contract for legal services entered into between the undersigned and the Debtors.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: July 27, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Koury Hicks

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Koury Hicks  
North Carolina State Bar No.: 36204  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
(919) 847-9750

## CERTIFICATE OF SERVICE

I, Koury Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on July 27, 2011 , I served copies of the foregoing **AMENDED MOTION TO MODIFY PLAN** by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee

Michael West  
U.S. Bankruptcy Administrator

Phillip Lee Williams Sr. And Allyson Elizabeth Williams  
504 Stonelick Drive,  
Durham, NC 27703-

Auto Credit of Raleigh  
Attn: Managing Agent  
3501 Capital Blvd  
Ste. 145  
Raleigh, NC 27604-

All creditors with duly filed claims as listed on the Trustee's website.

/s Koury Hicks

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Koury Hicks